

OPEN MEETING AGENDA ITEM
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BEFORE THE ARIZONA CORPORATION COMMISSION



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2005 SEP 28 P 4: 22

AZ CORP COMMISSION
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IN THE MATTER OF THE APPLICATION OF
ARIZONA WATER COMPANY FOR AN
EXTENSION OF THE SERVICE AREA UNDER
ITS EXISTING CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
WATER UTILITY SERVICES.

DOCKET NO. W-01445A-03-0559

PROCEDURAL ORDER

BY THE COMMISSION:

In Decision No. 66893 (April 6, 2004), the Arizona Corporation Commission ("Commission") granted Arizona Water Company's ("AWC") application for an extension of its Certificate of Convenience and Necessity for its Casa Grande system, subject to certain conditions.

Specifically, AWC was ordered to file (1) a copy of the Developers' Assured Water Supply for each development with the Commission within 365 days of the Decision and (2) a main extension agreement associated with the extension area within 365 days of the Decision. Pursuant to Decision No. 66893, failure to meet these conditions within the specified time would render the Decision null and void without further Order of the Commission.

On March 30, 2005, AWC filed a Request for Additional Time to Comply with the Filing Requirement ("Request"). By its filing, AWC requested an additional 365 days to comply with the above referenced conditions based upon the fact that development in the proposed expansion area would be delayed for a year.

By Procedural Order issued April 5, 2005, the Commission's Utilities Division Staff ("Staff") was ordered to file a response to AWC's Request on or before April 11, 2005.

On April 7, 2005, Robson Communities, Inc. ("Robson") filed a letter in this Docket on behalf of Cornman Tweedy 560, LLC ("Cornman"), the owner of approximately 1,200 acres of real property located within the area in Pinal County for which AWC was granted an extension in Decision No. 66893, which is to be developed as part of the EJ Ranch Master Planned Community ("EJ Ranch"). Robson argued that given AWC's failure to timely comply with the above

1 referenced conditions, Decision No. 66893 is automatically null and void without further Order of the
2 Commission.

3 On April 11, 2005, Staff filed a Memorandum, which recommended the scheduling of
4 additional evidentiary proceedings on the merits of AWC's Request in light of Robson's objection.

5 On April 15, 2005, Picacho Water Company ("Picacho") filed an application for an extension
6 of its CC&N to include the area.¹

7 On April 20, 2005, AWC filed a Response to Staff's Recommendation for Additional
8 Evidentiary Proceedings by which AWC argued that Staff's recommendation must be rejected as
9 Robson and Cornman have no standing to present objections. AWC further argued that extensions
10 for compliance, such as those set forth in AWC's Request, are routine in nature and should be
11 granted.

12 On May 10, 2005, the assigned Administrative Law Judge issued a Recommended Order
13 which granted AWC's request for additional time to comply with Decision No. 66893 and which
14 found that neither Robson nor Cornman had standing to object to AWC's request. The Recommended
15 Order was discussed by the Commission during its May 24, 2005 Open Meeting, but no vote was
16 taken on the matter.

17 On June 10, 2005, a Procedural Order was issued in Docket No. W-03528A-05-0281
18 directing the parties to make a good faith effort to discuss and attempt to resolve this matter prior to
19 proceeding in either docket.

20 On July 29, 2005, in that docket, AWC filed a Status Report and Request for Decision, and
21 Picacho filed a Status Report and Request for Hearing. The parties indicated that they were unable to
22 resolve this matter. Accordingly, by Procedural Order issued September 16, 2005, a procedural
23 conference was scheduled held to discuss the matter.

24 On September 23, 2005, the Procedural Conference was held as scheduled. AWC appeared
25 and was represented by counsel; Picacho was not represented by counsel, but its General Manager
26 appeared; and Staff appeared through counsel. The parties indicated that they had not reached any
27 agreement and that they had no recommendation on how to proceed with the matter, other than to
28

¹ Docket No. W-03528A-05-0281

1 grant their own, separate, requests.

2 Accordingly, before the Commission can process Picacho's application for extension of its
3 CC&N, a determination should be made as to whether AWC has a valid CC&N for that area. That
4 issue is a legal one, and the Commission's Staff should be directed to file a legal brief on the issue of
5 whether the CC&N extension of AWC is void pursuant to Decision No. 66893.

6 IT IS THEREFORE ORDERED that no later than October 14, 2005, the Commission's Legal
7 Staff shall file a legal memorandum or brief on the issue of whether the extension of Arizona Water's
8 CC&N is void, pursuant to Decision No. 66893.

9 DATED this 28 day of September, 2005.

10
11 
12 LYN FARMER
13 CHIEF ADMINISTRATIVE LAW JUDGE

14
15 Copies of the foregoing mailed/delivered
this 28 day of April, 2005 to:

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